

Message

From: Hicks, Matt [Hicks.Matthew@epa.gov]
Sent: 4/11/2019 9:08:40 PM
To: Palmer, Leif [Palmer.Leif@epa.gov]; Rubini, Suzanne [Rubini.Suzanne@epa.gov]; Ghosh, Mita [Ghosh.Mita@epa.gov]; Nagrani, Kavita [Nagrani.Kavita@epa.gov]
Subject: FL 404 Assumption Status

Leif,

Here's the latest on FL 404 assumption for your awareness:

1. Since April 1st, Region 4 has been working with OGC to develop a draft letter to FDEP highlighting EPA's readiness to expeditiously act upon the state's assumption package once complete in an effort to push back against an initiative within the Florida legislature that assigns blame to EPA for the delay in the state assuming the program. On April 9th, Region 4 provided OGC staff input on a draft letter to FDEP Secretary Valenstein for Matt Leopold's signature which outlines the status of the components of a draft assumption package, including items EPA has yet to see, and reiterates EPA's readiness to review the state's 404 assumption package once complete. Region 4 put forward a recommendation for softening the tone of the letter but made it clear that we deferred to Matt Leopold on final wording. OGC plans to notify Region 4 once they have a final draft Matt is comfortable sending so that the Region can alert Acting RA Mary Walker.
2. EPA staff received a copy of the FDEP/Corps MOA from FDEP staff with Corps suggested edits on March 14. These edits were reviewed by the EPA assumption team and forwarded to management with a summary of edits of interest, which impact ESA coordination, on March 19th. On March 26th, FDEP staff disclosed additional Corps edits that were not reflected as redline changes in the version EPA reviewed, including edits to the modification and enforcement section of the MOA. The edits to the enforcement section raise some questions which the team plans to discuss with the Corps and FDEP. FDEP staff are contacting the Corps to coordinate a call with the three agencies to discuss, potentially during the week of April 15th. The EPA Team will follow-up with management after this call with recommended next steps.
3. The EPA team has questions about the Corps' draft retained waters list and associated draft GIS layer which it plans to discuss with the Corps and FDEP. FDEP staff are contacting the Corps to coordinate a call with the three agencies to discuss, which will potentially occur during the week of April 15th. The EPA team will follow-up with management after this call with recommended next steps.

There has been no change in the status of the assumption deliverables but I decided to increase the estimated completeness of the program description to 30% to reflect that we currently have a decent amount of information in draft that will serve as the basis for the program description. There's still a lot we don't have which is why I cap it at Ex. 5 Deliberative Process (DP)
The usual caveats apply about these being rough estimates of deliverable completeness including how far along we are to getting review/signatures/buy-in from necessary parties.

- Letter from Governor requesting program approval Ex. 5 Deliberative Process (DP)
- Complete program description Ex. 5 Deliberative Process (DP)
- Attorney General's statement Ex. 5 Deliberative Process (DP)
- EPA/DEP MOA Ex. 5 Deliberative Process (DP)
- Corps/DEP MOA Ex. 5 Deliberative Process (DP)
- Copies of all applicable state statutes and regulations, including those governing applicable state administrative procedures Ex. 5 Deliberative Process (DP)

The 5-way MOA is not a required component per the 404 assumption regulations but it is something that will be part of FL's program so we've attempted to assign it a completeness number as well.

- 5-way MOA Ex. 5 Deliberative Process (DP)